IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL APPLICATION NO. 7532 OF 2005
IN
CRIMINAL APPEAL NO. 1062 OF 2005

1. Jalindar Keraba More and Ors. .. Applicants (Org. Acccused)

Vs.

The State of Maharashtra .. Respondent

Mr. D.H. Mumthekar for the applicants.
Mr. V.B. Konde-Deshmukh, APP for State.

CORAM : B. H. MARLAPALLE &
SMT. R.S. DALVI,JJ.

Date : February 01, 2006.

P.C.:

1. The applicants have filed filed Criminal Appeal No.1062 of 2005 against the order of conviction and sentence for the offences punishable under Sections 302, 506(ii) of IPC passed by the learned Additional Sessions Judge, Gr. Mumbai in Sessions Case No.1003 of 2001 and hence this application for being released on bail by suspending the said order of sentence.

2. It is noted that the date of offence was

11/4/2001 and the F.I.R. was registered on 20/5/2001. Usha, the daughter of the applicant no.1, aged about 2 years, was alleged to have been dropped on the ground by the applicant no.1 and she died on account of the head injury. The prosecution examined the wife of the applicant no.1 i.e. Sunanda as P.W.1 and Ashok Navkoodkar as P.W.2.

3. Having considered the defence taken by the applicant no.1 and the oral depositions of both the witnesses, we are satisfied that the applicant no.1 deserves to be released on bail during the pendency of the appeal. The admitted post-mortem report at Exh.15 gives the reason for death as "head injury". The wife initially had stated to the police on 12/4/2001 that the child died on account of a fall from a wall where she was sitting, but while in the witness box she stated that such a statement was made by her but under the pressure of the family members. There is no other witness examined to corroborate the evidence of the wife, though other persons were claimed to have seen the incident as per the prosecution case.

4. Hence, the prayer for bail made on behalf of

applicant no.1 is granted and the applicant no.1 is directed to be released on bail on the same terms, as in the trial court, but on furnishing fresh bond of Rs.5000/- by suspending the order of sentence under Section 389 of Cr.P.C. Since the applicant nos.2 and 3 have already been released on bail by the trial court, their prayer for bail does not survive in this application. The application disposed off accordingly.

(Smt.R.S. Dalvi,J.) **(B.H. Marlapalle, J.)**